

The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

December 30, 2017

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Batalla Vidal et al. v. Baran et al.,
No. 1:16-cv-04756 (NGG) (JO)

Dear Judge Garaufis:

Yesterday afternoon, this Court directed Plaintiffs to respond by January 3, 2018 to Defendants' motion to certify an interlocutory appeal of the November 9, 2017 order denying their motion to dismiss on jurisdiction and justiciability grounds. ECF No. 219. Later in the evening, Defendants moved to stay discovery and record completion pending disposition of their motion to certify. ECF No. 220. The Court's November 9 order was correct and Defendants do not satisfy the demanding standard for certification pursuant to 28 U.S.C. § 1292(b). Nevertheless, because the certification motion will be ripe for decision in a matter of days, Plaintiffs do not object to a short stay. *See also In re Nielsen*, No. 17-3345, Order at 4 (2d Cir. Dec. 27, 2017), ECF No. 171 (noting that stay of discovery pending certification motion "may be prudent").

In the event this Court denies the certification motion, Plaintiffs expect to oppose any further stay of the current discovery orders Defendants might request. If any such denial occurs prior to the January 8, 2018 status conference before Magistrate Judge Orenstein, Plaintiffs will be prepared to appear and address the revisions, if any, to the existing scheduling order. ECF No. 217.

Very truly yours,

/s/ Michael J. Wishnie

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